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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,435	11/20/2001	Fabrice L. Cavarretta		8585

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EXAMINER

BEKERMANN, MICHAEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/988,435		CAVARRETTA ET AL.	
	Examiner		Art Unit	
	Michael Bekerman		3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it exceeds the 150 word limit. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-8, 10-20, 25, 26, 32, and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Regarding claim 1, this claim recites the limitation "for proposing its reward".

There is insufficient antecedent basis for this limitation in the claim.

Further regarding claim 1, this claim recites the limitation "in response to the fields fulfilled". This is confusing. There is no step of fulfilling fields claimed.

Further regarding claim 1, this claim recites the limitations "in response to choosing the propagation option" and "in response to choosing the 'act on' option". This is confusing. There is no step of choosing an option claimed.

Further regarding claim 1, this claim recites the limitation "in response to an acceptance". This is confusing. There is no step of acceptance claimed.

Regarding claim 2, this claim recites the limitation “the propagation is a viral process”. This is unclear. What requirements must a propagation meet to be considered a “viral process”? What exactly is a “viral process”?

Regarding claims 3-6, 11, 15, 18, 32 and 33, these claims recite limitations that use the phrase “e.g.” and are contained within parenthesis, which both render the claims indefinite because it is unclear whether the limitation(s) following the phrase or included in the parenthesis are part of the claimed invention.

Regarding claim 7, this claim recites the limitation “the display of identity”. There is no step of displaying identity claimed. There is insufficient antecedent basis for this limitation in the claim.

Further regarding claim 7, this claim recites the limitation “the display...can be anonymous”. It is unclear if anonymity is truly required with the phrase “can be”.

Regarding claim 8, this claim recites the limitation “be registered”. There is no act of registration previously claimed. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 10, this claim recites limitations that are contained within quotes. It is unclear whether the limitations included in the quotes are titles or descriptive phrases.

Regarding claims 11-13, 15 and 25, these claims recite the limitations “at each level”, “for all levels”, “for his level”, “to the level” and “at level 1”. No levels have been earlier claimed. There is insufficient antecedent basis for these limitations in the claims.

Regarding claim 14, this claim recites the limitations “the simple intermediaries” and “the winning branch”. Simple intermediaries and branches have not been earlier claimed. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 15, this claim recites the limitation “the submitter”. It is unclear as to who the submitter is. There is insufficient antecedent basis for this limitation in the claim. It appears that the user that performs the request and the submitter of the winning solution are the same person.

Regarding claim 16, the phrase “that is” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Further regarding claim 16, this claim recites the limitation “the two reward schemes”. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 17, this claim recites the limitation “being automatically identified by clicking”. It is unclear if the identification is actually automatic, or if an action by the user (clicking) is required to take place.

Regarding claims 18 and 19, these claims recite the limitation “the individual identifier”. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 20, this claim recites the limitation “the message”. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 26, this claim recites the limitation “in response to the information being given”. This is confusing. There is no step of giving information claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8, 10, 11, 14-22, 25-28, and 34-36 are rejected under 35

U.S.C. 102(e) as being anticipated by Luth (U.S. Patent No. 6,446,044). Luth

teaches a method and system of distributing surveys which includes all of the limitations recited in the above claims.

Regarding claims 1, 4, 5, 7, 10, 15, 16, 20, 21, 26-28, and 34-36, Luth teaches propagating a survey to a list of individuals that are members of a network (Column 1, Lines 45-52), generating choices to answer the survey and to send the survey to non-members (Column 1, Lines 45-52), and rewarding anyone who answers the survey along with rewarding them for those people they have referred also answering the survey (Column 1, Lines 45-52). Since surveys exist in the system, a means for creating the survey and proposing the reward are inherent in the system.

Regarding claim 2, the system of Luth combines viral marketing and multi-level marketing with incentives (Column 2, Lines 41-46).

Regarding claim 3, the surveys of Luth are considered both an object, and a question difficult to answer.

Regarding claim 6, Luth's system is considered a third party.

Regarding claim 8, Luth teaches members as making the survey public by distributing it to non-members (Column 1, Lines 45-52).

Regarding claim 11, Luth teaches an intermediary getting less reward than the person who completed the survey (Column 4, Lines 11-15). This different proportion of reward reads on a ratio.

Regarding claim 14, Luth teaches the reward being defined for both the intermediary and the person successfully acting on the survey (Column 4, Lines 11-15).

Regarding claim 17, Luth teaches receivers of surveys as being members of a group. Thus, it is inherent that the system would already recognize the user.

Regarding claims 18, 19, 22 and 31, Luth teaches member identifiers as including electronic identifiers (email) and postal address (Column 3, Lines 11-17).

Regarding claim 25, Luth teaches the implementation of filters to decide who may be surveyed (Column 3, Lines 29-31).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 9, 12, 13, 23, 24, 29, 30, 32, and 33 are rejected under 35 U.S.C.**

103(a) as being unpatentable over Luth (U.S. Patent No. 6,446,044).

Regarding claims 9 and 12, Luth doesn't specify who sets the reward scheme in the survey system. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the administrator of the survey to set the reward scheme. This will show how much the administrator would like to pay out for an adequate answer to the survey.

Regarding claim 13, Luth doesn't specify who sets the reward scheme in the survey system. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the propagator of the survey to set the reward scheme. This will show how much the propagator would like to receive before answering or sending out a survey.

Regarding claims 23, 24, 29, 30, 32, and 33, Luth doesn't specify the display components as being a PDA, telephone, XML codes, Infrared codes, or cellular system. Official notice is taken that all of the above technology is old and well-known with respect to the display and propagation of messages. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use whichever technology is the most appropriate for both the requester and the propagator.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to viral marketing campaigns:

U.S. Patent No. 5,537,314 to Kanter

U.S. Pub No. 2004/0225558 to Lipin


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bekerman whose telephone number is (571) 272-3256. The examiner can normally be reached on Monday - Friday, 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MB



JEFFREY D. CARLSON
PRIMARY EXAMINER